

STATE OF NEW YORK - COUNTY OF ULSTER
CITY OF KINGSTON ETHICS BOARD

In the Matter of Alderman Brad Will.

ORDER

Following an evidentiary hearing held on September 22, 2015 which afforded respondent due process of law, and having considered all evidence submitted as part of that hearing, the City of Kingston Ethics Board hereby finds that Alderman Brad Will did knowingly violate the Ethics Law of the City of Kingston as charged by Andrew Champ-Doran and Felix [John] Perry in complaints filed with the Board. Specifically, the Board has determined that Mr. Will violated sections 49-4 and 49-5 of the Ethics Law, as admitted by his counsel at the hearing. The Board has this day entered a report which contains relevant findings of fact and conclusions of law.

Having considered each of the mitigating factors submitted by counsel for Mr. Will, the Ethics Board hereby assesses a fine of \$1,000 against Mr. Will for his violations. Payment of the fine should be made within forty-five days to the Comptroller of the City of Kingston.

The Ethics Board further recommends that, as Mr. Will's department head, the Alderman-at-Large, James Noble, should provide a written reprimand to Mr. Will for his violations of the Ethics Law, specifically for repeatedly participating in discussions concerning, and then voting, both in the Finance and Audit Committee

and on the floor of the Common Council, on resolutions in which he had a personal interest without disclosure of the same.

In assessing this fine, the Ethics Board considered both the seriousness of the underlying conduct, Mr. Will's admission, through his counsel, that he violated the Ethics Law and his representation, again through counsel, that, forthwith and henceforth, he shall respect and comply with all of its provisions.


This Order represents the unanimous decision of the Ethics Board as reflected by the signatures of each member below.

SO ORDERED.


Dated: October 6, 2015.

Approved and Signed:


Chairwoman, Ethics Board


Member


Member


Member


Member

STATE OF NEW YORK - COUNTY OF ULSTER
CITY OF KINGSTON ETHICS BOARD

In the Matter of Alderman Brad Will.

REPORT

Following an evidentiary hearing held on September 22, 2015 concerning two virtually identical complaints received by the City of Kingston Ethics Board [hereinafter "Ethics Board" or "Board"] alleging that Alderman Brad Will [hereinafter "Will"] violated the City of Kingston Ethics Law, the Board adopts the following findings of fact, conclusions of law and recommendations:

FINDINGS OF FACT

1. Brad Will commenced service as an Alderman in January 2014.
2. During the first month of his service, Will filed an ethics complaint against a city official by lodging the same with the Alderman at Large, James Noble.
3. In his complaint, Will cited various provisions of the Ethics Law which prohibit elected officials from engaging in certain conduct, including sections 4 and 5.
4. In filing this complaint, Will attached copies of pertinent provisions of the City of Kingston Ethics Law.
5. Within thirty days after filing this ethics complaint, Will began actively participating in discussions during both the Finance and Audit Committee and in Common Council meetings concerning the Pike Plan.
6. Indisputably, Will, an architect, worked as a sub-contractor in designing aspects of the Pike Plan.
7. During 2013-14, to Will's knowledge, questions arose as to the efficacy of the design and construction of the Pike Plan.

8. Those questions implicated, among others, the work of Will and his company Ashokan Architecture.

9. Between February 2014 and December 2014, Will participated in discussions held both during Finance and Audit Committee meetings and on the floor of the Common Council which involved municipal efforts to determine what, if anything, went wrong with the implementation of the Pike Plan.

10. It was not until late 2014 that Will either recused himself or otherwise first abstained from participating in discussion and votes concerning this matter.

11. The Alderman at Large testified that he asked Alderman Will to participate in these meetings because he felt that Will was acquainted with the Pike Plan project and might be able to provide relevant information to Common Council members.

12. Though he testified that he attended Common Council meetings when Alderman Will discussed the project and voted on matters relating to it, the Corporation Counsel of the City of Kingston did not raise the apparent breach of the City's Ethics Law with Will as he stated that he believed that this was not part of his job description.

13. Counsel for Will also suggested that the proponents, the Pike Plan Commission and Andrew Champ-Doran, were dilatory in filing an ethics complaint in this matter.

14. The Ethics Board concludes that neither the action or inaction of the Alderman at Large or the Corporation Counsel nor the timing of the complaints in this case excuse or justify Will's conduct in this matter.

15. Instead, the Ethics Board concludes that the Ethics Law required Will to recuse himself entirely from discussions and votes concerning the Pike Plan project and that this obligation was both known to Will and knowingly violated by him from the first month of his term of office.

16. That others may have failed to advise Will of his violation of the Ethics Law does not excuse Mr. Will's personal responsibility under the Ethics Law, which applies to each officer of the City and reposes in each the obligation to follow its requirements.

17. Through counsel at these proceedings, Will admitted that, as alleged in the proponents' complaints to the Ethics Board, his conduct violated the City of Kingston Ethics Law.

18. Will did not testify under oath at the evidentiary hearing held on September 22, 2015.

19. Will's failure to testify makes hollow arguments made by his counsel with regard either to his intent or motive in participating in discussion and votes concerning the Pike Plan.

20. The Ethics Board has considered Will's failure to testify and believes it was a conscious decision, made after consultation with his counsel, to shield his conduct and intent from the Ethics Board.

21. Will knowingly participated in discussion and cast votes on matters relating to the Pike Plan though he knew that the matters under review might affect him and his business, both from a pecuniary perspective and reputationally.

22. Will did not disclose his conflict of interest at either the Finance and Audit Committee meetings or on the floor of the Common Council before the Pike Plan matter was discussed.

23. Respondent Will failed to offer any evidence supporting his counsel's argument that he did not know or understand the Ethics Code. Instead, through counsel, Will admitted that, as alleged in the proponents' complaints to the Ethics Board, his conduct violated the City of Kingston Ethics Law.

CONCLUSIONS OF LAW

1. Based upon the admissions by Will's counsel, the Ethics Board concludes that respondent Will knowingly violated the Ethics Law, specifically sections 49-4 and 49-5.

2. Will failed to mitigate his violation of the Ethics Law as his claim that he did not understand the dictates of the law is contrary to his own filing of a charge against another public official the month before he began participating in discussion and votes concerning the Pike Plan.

3. Accordingly, the Board concludes that Will consciously and intentionally violated the City of Kingston Ethics Law.

4. Having found that Will repeatedly and knowingly violated the Ethics Law and has so admitted, the Ethics Board must assess a fine against him.

5. The Board determines that a fine of \$1,000 is warranted in that while the Board deems Will's repetitive violations to be serious, there is no evidence that he materially benefited from his violation of the law. In addition, more seasoned members of the City government were aware of Will's transgression of the Ethics Law and did not direct him to desist from the conduct the Ethics Board has found to have violated the Ethics Law. While the culture of accepting such violations does not excuse Will, the Board believes it is relevant in assessing a penalty against him.

6. The Board further recommends that Will be severely reprimanded by the Alderman at Large, as Chair of the Common Council, for his failure to abide by the Ethics Law. This reprimand should emphasize the personal responsibility each member undertakes with his/her election to see that all municipal laws are faithfully followed.

ENTERED: October 6, 2015


CHAIRWOMAN, CITY OF KINGSTON
ETHICS BOARD